



BLUFFTON POLICE DEPARTMENT

MEMORANDUM

TO: Mayor and Council

FROM: Colonel David F. McAllister
Chief of Police

RE: Chapter Four of Municipal Code Update - Animals

DATE: June 1, 2010

BACKGROUND:

Recently Beaufort County updated its animal ordinance to reflect changes in State Law as well as insert initiatives to lower the kill rate at the Animal Shelter. As you know, the town shares jurisdiction over animal issues with Beaufort County and it is important that our ordinances remain compatible so that it will allow seamless prosecutions and consistent treatment throughout our Town. Although many of the proposed changes to the ordinance are merely updated definitions and word changes, below are some of the features that are now in the ordinance that makes it a stronger one than we currently have.

1- Better Definitions and descriptions of what constitutes a nuisance animal.

This will allow Law Enforcement officers to have better guidance when faced with this types of calls in the field, as well as provide a more detailed description should prosecution be necessary.

2- Better definitions and description of what constitutes animal abuse.

In addition to more specific acts being included, the new section also includes the act of locking an animal in a car. This is a frequent call for Law Enforcement and

currently our ordinance did not specify that as an offense while Beaufort County's did -- This caused some confusion in the field.

3- A specific section requiring animal owners to pick up their animal's waste.

This has been a frequent issue and is not clearly required by our current ordinances. This should solve the community issues, as well as stop some of this material from polluting our waterways.

4- Defining and permitting Trap-Neuter-Release as a way to control the feline population in the Town.

TNR, also known as Trap-Test-Vaccinate-Alter-Release (TTVAR), is a method being promoted as a humane alternative to euthanasia for managing and reducing free roaming cat populations. TNR relies on sterilization of the cats so that they do not breed. The method has been gaining increasingly widespread acceptance in the United States since the late 1980s and early 1990s, to the point that some municipalities have embraced the method and support it through veterinary subsidy programs.

Trap-Neuter-Return begins with the trapping of free roaming cats using humane cage traps. The captured cats are taken to a veterinary clinic where they are sterilized. Some TNR programs also involve providing the cats vaccinations against certain diseases. In addition, all programs involve marking the cats through ear tipping or a tattoo so that they can be easily identified as part of a managed colony.

After the cat is sterilized and vaccinated, it is placed back in the trap and allowed to recover from surgery. It is subsequently released to the site of capture.

Practitioners of TNR believe that this method is, over the long-term, a more effective population reduction approach than traditional (e.g., eradication) methods. They argue that when all cats in a colony are removed, fertile cats from surrounding areas typically move into the vacated area to take over shelter and food resources—and begin breeding. On the other hand, sterilized feral cats returned to their site of capture do not breed, and practitioners claim they keep

fertile outsiders away. The population in a managed colony is said to be reduced by attrition over time as kittens and socialized adult cats are removed to adoptive homes, seriously ill or injured cats are euthanized, and other cats die due to natural and accidental causes. Any new cats that arrive in a managed and regularly observed colony may be identified and sterilized before they breed.

Various long term studies have shown that TNR is effective in stopping the breeding of cats in the wild and reducing the population over time. In addition to these studies, a 2004 controlled study by veterinarians in Connecticut found that TNR consistently reduced the populations of free roaming cat colonies, by a mean of 36% over two years and with the extinction of one third of the colonies within the same period, while the non-TNR'd colonies increased by a mean of 47%.

Many TNR programs that have resulted in decreased populations have also included intensive efforts to adopt a large proportion of the population, which is generally part of TNR.

In practice, many municipalities which have tried TNR have found it effective in reducing cat populations within their borders. For this reason, the National Animal Control Association recently changed its position on free roaming cat control to support TNR. In an interview explaining the change, the president of the National Animal Control Association explained that municipalities have found management more successful in controlling cat populations than attempts at eradication, that it is more cost effective and elicits the assistance of the private sector, that no agency in the country can afford to just keep practicing trap and euthanize, and that the old method of trapping and euthanizing is like trying to "bail the ocean with a thimble" due to limited animal control resources.

Beaufort County has adopted TNR as its method of controlling the feline population, as well as lowering the kill rate at the shelter. This ordinance will allow TNR within the town limits of Bluffton.

CONCLUSION:

The Police Department is recommending adoption of this new Animal Ordinance.

AN ORDINANCE TO AMEND CHAPTER 4, ANIMALS, OF THE MUNICIPAL CODE OF THE TOWN OF BLUFFTON, SOUTH CAROLINA.

Whereas, the Town of Bluffton desires to improve the general safety, welfare, health and properties of the citizens of the Town of Bluffton; and

Whereas, the Town of Bluffton Municipal Code Chapter 4, Animal, Ordinance is hereby amended to comply that enables to better facilitate, regulate and supervise consistent treatment in the Town of Bluffton; and

Whereas, The Town of Bluffton has the authority to enact such regulations and procedures pursuant to South Carolina Code of Laws 1976, Section 5-7-30; and

Whereas, Amendment of the Chapter 4, Animals, of the Town of Bluffton Municipal Code is restated as follows:

Article I. In General

- Sec. 4-1. Responsibility for animal control.
- Sec. 4-2. Definition; application of regulations.
- Sec. 4-3. Animal and fowl nuisance.
- Sec. 4-4. Driving and racing.
- Sec. 4-5. Animals at large prohibited.
- Sec. 4-6. Housing for animals to be hygienic.
- Sec. 4-7. Food, water, exercise, space and shelter.
- Sec. 4-8. Dead animals; disposal.
- Sec. 4-9. Impoundment of animals authorized.
- Sec. 4-10. Thru 4-34. Reserved.

Article II. Hogs, Livestock, Etc.

- Sec. 4-35. Swine, livestock prohibited from Town; exceptions.
- Sec. 4-36. Nuisance; failure to abate.
- Secs. 4-37. thru 4-62. Reserved.

Article III. Animals in General

- Sec. 4-63. Dog defined; running at large prohibited.
- Sec. 4-64. Rabies inoculation required; County requirements.
- Sec. 4-65. Unrestrained dogs or unlicensed dogs to be impounded.
- Sec. 4-66. Animal Cruelty
- Sec. 4-67. Trap-Neuter-Release (TNR)
- Secs. 4-68 thru 4-90. Reserved

Article IV. Bird Sanctuary

Sec. 4-91. Established

*State Law References – Municipal authority to enact ordinances for care and control of dogs, cats, and other animals, S.C. Code 1976, § 47-3-20; municipal powers not limited by state laws, S.C. Code 1976, § 47-3-70; required annual inoculation of pets against rabies, S.C. Code 1976, § 47-5-60; notice to health department of animals suspected of rabies, S.C. Code 1976, § 47-5-80; metal inoculation tag required, S.C. Code 1976, § 47-5-60; impoundment of strays, S.C. Code 1976, § 47-3-40; disposition of strays, S.C. Code 1976, § 47-3-60; duty to contact owners, S.C. Code 1976, § 47-3-55; state falconry permit regulations, S.C. Code Reg. 123-170.

ARTICLE I. IN GENERAL

Sec. 4-1. Responsibility for Animal Control.

The responsibility for animal control is hereby vested concurrently in the County and the Town.

(Code 1999, § 3.101)

Sec. 4-2. Definition; Application of Regulations.

(a) *Animal* means any live, vertebrate creature, domestic or wild.

(b) All regulations shall apply within the municipal limits
(Code 1999, § 3.102)

Sec. 4-3. Animal and Foul Nuisance.

(a) Any fowl, bird, or animal, including dogs, which shall by sound, odor, or sight materially interfere with or adversely affect health, comfort, peace, or quiet of the people of the Town is hereby declared to be a nuisance.

(b) *Nuisance* means any animal which:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Trespasses on school grounds;
- (4) Is repeatedly at large;
- (5) Damages private or public property; or
- (6) Barks, whines, howls, screeches or crows in an excessive, continuous or untimely fashion.
- (7) Causes harm to the public's health, safety or well being.

(c) Any person harboring, keeping in possession, or having in custody or control any fowl, bird, or animal which constitutes a nuisance as defined in subsection (a) of this section who shall fail or refuse to take such action or do such things as will abate such nuisance when requested in writing in writing to do so by the Chief of Police shall be guilty of a misdemeanor.
(Code 1999, § 3.103)

Sec. 4-4. Driving and Racing.

It shall be unlawful for any person to drive horses or other animals at a dangerous speed, or to race horses or other animals on the public streets.
(Code 1999, § 3.105)

Sec. 4-5. Animals at Large Prohibited.

(a) *Running at large.* It shall be unlawful for any owner or custodian of any dog, cat, or other animal to permit the dog, cat, or other animal to run at large at any time upon any street or highway or other property within the county
(S.C. Code 1976 § 47-7-110).

(c) *Control of animals generally.* No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.

Sec. 4-6. Housing for Animals to be Hygienic.

No person shall cause or allow any place where an animal is kept or may be kept to become unclean or unwholesome.
(Code 1999, § 3.108)

Sec. 4-7. Food, Water, Exercise, Space and Shelter.

No owner or keeper shall fail to provide animals and livestock with wholesome food, water, adequate space, and shelter from the weather.
(Code 1999, § 3.304)

Sec. 4-8. Dead Animals; Disposal.

(a) Shall be unlawful for any person who has possession, ownership, or custody of any animal that may die from any natural or other cause to permit such dead animal to remain for a longer period than may be necessary under the circumstances to remove such dead animal. Under no condition shall any such animal remain longer than 24 hours.

(d) Any dead animal not so removed within 24 hours shall be removed at the expense of the person in whose possession the animal died.
(Code 1999, § 3.109)

Sec. 4-9. Impoundment of Animals Authorized.

(a) Any animal, including dogs, found within the Town in such a place, circumstances, or condition so as to constitute a violation of any provision of this chapter may be seized and impounded by any member of the Town Police Department and other duly authorized law enforcement or animal control officer, or his designee.

(b) If the owner or keeper of such animal cannot be immediately located or notified, such animal may be turned over to the County Department of Animal Control or other appropriate agency or facility determined by the Chief of Police.

(c) In addition to any other penalty provided by law, the owner of such animal shall reimburse the Town for any costs incurred by the Town in the capture and confinement of such animal.

(Code 1999, § 3.203)

Sec. 4-10 – 4-34. Reserved.

ARTICLE II. HOGS, LIVESTOCK, ETC.

Sec. 4-35. Swine, Livestock Prohibited from Town; Exceptions.

(a) No swine or livestock shall be kept within the corporate limits without specific approval of the Town Council, or unless otherwise allowed by zoning regulations. No approval shall be granted or continued if such keeping shall constitute a menace to health or welfare of the public.

(b) No livestock shall be permitted to run at large.
(Code 1999, § 3.201)

Sec. 4-36. Nuisances; Failure to Abate.

(a) Any livestock which shall by sound, odor, or sight materially interfere with or affect the health, comfort, peace, or quiet of the people of the Town is hereby declared to be a nuisance.

(b) Any person harboring, keeping in possession, or having in custody or control any livestock which constitutes a nuisance as defined in subsection (a) of this section who shall fail or refuse to take such action or do such things as will abate such nuisance when requested in writing to do so by proper authority, upon conviction, shall be guilty of a misdemeanor.

(c) All stables, houses, and barns shall be kept in a clean and sanitary condition, and the manure not allowed to accumulate, and shall be subject to regulations prescribed by the County health officer. (Code 1999, § 3.202)

Sec. 4-37 – 4-62. Reserved.

ARTICLE III. ANIMALS IN GENERAL

Sec. 4-63. Dog Defined; Running at Large Prohibited.

(a) The term “dog” shall include all members of the canine family, including foxes and other canines.

(b) No dog, including those in heat, dangerous, or vicious, may run at large beyond the premises of its owner, unless in the immediate presence of and under the control of a responsible person. Direct control may be affected by leash, or by personal command, if the latter effectively provides direct and positive control. The requirements of this section are not altered by whether or not a dog is vicious or uninoculated.

(Code 1999, § 3.301)

(c) No person shall permit any excrement from any animal under that person’s control to remain on the street or any other public place or the private property of another, but shall dispose of same in a sanitary manner.

(d) Any violation of these provisions shall result in the owner of the animal being charged with a misdemeanor and may result in the animal being seized by the appropriate animal control officer or law enforcement officer.

Sec. 4-64. Rabies Inoculation Required; County Requirements.

(a) As required by S.C. Code 1976, § 47-5-60, It shall be unlawful for any person to own or have in possession any dog, cat, or ferret which has not been inoculated against rabies within the proceeding 12 months by a licensed veterinarian; pets inoculated with a vaccine good for a longer period of time than one year shall be deemed in compliance with the requirements of this section.

(b) The provisions hereof shall conform to such requirements as may be promulgated by County authorities.

(Code 1999, § 3.302)

Sec. 4-65. Unrestrained Dogs or Unlicensed Dogs to be Impounded.

The designated agent of the Town or any police officer is authorized to apprehend any unlicensed or unrestrained dog found running at large and impound the dog in a designated facility. In addition to any other penalty provided by law, the owner of such animal shall reimburse the Town for any costs incurred by the Town in the capture and confinement of such animal.

(Code 1999, § 3.303)

Sec. 4-66. Cruelty

(a) *Animals care generally.* No owner shall fail to provide his animals with sufficient, good and wholesome food and water at all times; proper shelter and protection from the weather; a clean and sanitary environment; veterinary care when needed to prevent suffering; and humane care and treatment. Failure to comply with the animal

control officer's instructions or directions will result in the animal control officer impounding the animals pending the ruling of the court.

(b) *Mistreatment.* No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal or cause, instigate or permit any fight or other combat between animals or animals and humans.

(c) *Cropping or dubbing of ears, tails, comb, wattles, spurs or earlobes.* No person shall crop or dub an animal's ears or tail or wattle or comb, except a licensed veterinarian who is qualified to perform such an operation.

(d) *Giving away for commercial purpose.* No person shall give away any live animal, fish, reptile, or bird as a prize for or as an inducement to enter any contest, game, or other competition or as an inducement to enter a place of amusement or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(e) *Striking with motor vehicle.* Any person, as the operator of a vehicle, who strikes a dog or cat should, if reasonably possible, report the accident to the owner, and should call 911 and ask that the police department be notified of the time and place of the accident.

(f) *Poisoning.* No person shall expose any known poisonous substance, whether mixed with food or not, in such a manner as to endanger any animal.

(g) *Leaving unattended.* No person shall leave an animal unattended for more than twenty-four (24) hours. This shall constitute abandonment. After a twenty-four (24) hour period, if no contact has been made with an owner, the police department and/or their designee will pick up the animal and transport it to the designated facility.

(h) *Locking in vehicle.* It shall be illegal for any person to leave an animal unattended in a vehicle. A law enforcement officer will remove the animal when the officer's opinions are that the animal is in distress.

(i) *Denial of shelter.* No person shall fail to provide shelter or deny shelter for any animal, fish, bird, fowl or reptile of any kind in any manner without shading same from the sun, any direct light, heat or cold and providing adequate ventilation for their use.

(j) *Denial of treatment.* No person shall fail to provide humane treatment or deny humane treatment for any disease, sick or injured animal.
(Code 1982, § 4-12)

Sec. 4-67. Trap-Neuter-Release (TNR)

TNR Program means a program pursuant to which cats are trapped, neutered or spayed, vaccinated against rabies, ear tipped or tattooed and returned to the current location of the managed colony. TNR is recognized as the humane and preferred way to manage the population of free roaming felines within the Town of Bluffton.

(a) Cat colonies shall be permitted and caregivers shall be entitled to maintain them in accordance with the terms and conditions of this Section.

(b) *Caregiver Requirements.* It shall be the duty of the caregiver to:

- (1) To trap all cats within a colony and remove them to an approved facility for mandatory spay/neutering, rabies vaccination and marking then place the animals back into the colony. In facilitating the spay/neutering of cats, caregivers shall be presumed to have acted in good faith in concluding that cats routinely congregate within the colony are feral.
- (2) Help to resolve any complaints over the conduct of a colony or a cat within a colony.
- (3) Providing food, water and suitable shelter for colony cats.
- (4) Observe the colony cats daily for new members, illness or unusual behavior noticed in any colony cats. New additions o any managed colony should be trapped as soon as feasible for mandatory spay/neuter.
- (5) Obtaining proper medical attention to any colony cat that appears to require it.
- (6) Obtaining written approval of the owner of any property, on which the colony resides, or to which the caregiver requires access, to provide colony care. If private property owners deny permission and all avenues of mitigation and education are exhausted, then the Chief of Police may authorize Beaufort County Animal Control Officers or an appropriate organization to trap and relocate the colony.
- (7) In the event the kittens are born to a colony cat, the caregiver shall remove the kittens from the colony after they have been weaned and make every effort to place the kittens in homes or foster homes for the purpose of subsequent permanent placement.

Secs. 4-68 – 4-90 Reserved.

ARTICLE IV. BIRD SANCTUARY

Sec. 4-91. Established.

(a) The entire area within the corporate limits of the Town is hereby established and declared to be a wild bird sanctuary for non-game birds; provided, however, this section shall not apply to that area of Town known as Palmetto Bluff.

(b) Unless otherwise authorized under state hunting laws, it shall be unlawful within the Town to trap, hunt, shoot, harm, rob the nest of, or molest in any way any wild bird or fowl, except as may be determined by Town Council or the Manager.
(Code 1999, § 3.401)

Penalties.

Any person, persons, firm, company, representative of any firm or company otherwise violating the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor, each day during which a violation of the provisions of this chapter occurs, or each separate instance, shall be considered a separate offense punishable by a fine not

exceeding five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days, or both. (1976 SC Code §14-25-65)

Severability.

Each of the provisions of the ordinance is severable and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

Effective Date.

This ordinance shall become effective thirty (30) days after its adoption.

NOW, THEREFORE BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BLUFFTON, SOUTH CAROLINA, AND IT BE ORDAINED BY SAID AUTHORITY OF COUNCIL.

First Reading was held on this Ordinance on July 20, 2010.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

ATTEST:

Sandra Lunceford, Town Clerk
Town of Bluffton, South Carolina

Second and final reading was held on the Ordinance on August 10, 2010.

Lisa Sulka, Mayor
Town of Bluffton, South Carolina

ATTEST:

Sandra Lunceford, Town Clerk
Town of Bluffton, South Carolina